

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL MEMORANDUM

HB 2296 – SB 2284

June 11, 2009

SUMMARY OF AMENDMENTS (006828, 008069, 009601):

Amendment 006828 expands the methods used by viatical statement providers to prove financial responsibility. Establishes procedures for rescission. Reduces from 60 to 30 days the authorized period for rescission of a viatical contract, and reduces from 30 to 15 days the authorized period for rescission after proceeds have been paid. Reduces the possible violations deemed a fraudulent viatical statement act that qualify for additional penalties. Amendment 008069 redefines "fraudulent viatical statement act." Amendment 009601 requires any person who commits a fraudulent viatical settlement act to pay restitution in addition to any other penalty required based on the greater amount of the value of property, services, or benefit wrongfully obtained or the aggregate economic loss suffered by the aggrieved person.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$39,200/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures - \$15,700/Incarceration*

Funding for this bill as amended in the amount of \$15,700 is included in the Administration amendment to the appropriations bill (SB 2355/HB 2392).

Assumptions applied to amendments:

- Reducing the authorized period of rescission of a viatical contract from 60 to 30 days after signing by all parties, or from 30 to 15 days after proceeds have been paid, will reduce the range of conduct made criminal by this act by reducing the potential time for wrongfully refusing to allow rescission. It is assumed that this change will reduce the number of Class C felonies from one every two years as assumed in the original fiscal note to one every five years.

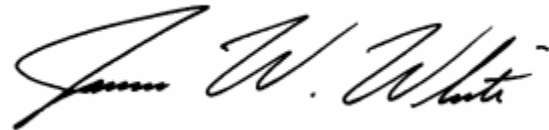
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- According to the Department of Correction, the average operating cost per offender per day for calendar year 2009 is \$59.80 and the average post-conviction time served for a Class C felony is 3.59 years. The annualized time served per conviction is 262.30 days (0.20 annual number of convictions x 1,311.48 days). The annualized cost per conviction is \$15,685.54 (\$59.80 x 262.30 days).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration increase will occur due to the population growth during this period.
- Due to the small number of offenders and the relatively short time served, no recidivism discount has been applied for these offenses.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a long horizontal stroke at the end.

James W. White, Executive Director

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